

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

Writ Appeal No. 450 of 2018

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. 27777 of 2017 dated 19.10.2017. The appellant herein filed the Writ Petition seeking a Writ of mandamus to declare the action of the Registrar, Sri Konda Laxman Telangana State Horticulture University in disqualifying candidates, who passed intermediate or higher studies, as ineligible for applying for the Horticulture Diploma course in the notification dated 26.7.2017, as arbitrary, illegal, unreasonable and violative of Articles 14 and 21 of the Constitution of India. A consequential direction was sought to set aside that portion of the notification dated 26.7.2017, and to direct the respondents to accept the appellant-writ petitioner's application for Horticulture Diploma course without reference to her passing the Intermediate Course, or alternatively permit her to surrender her Intermediate Certificate to the University and grant her admission in Horticulture Diploma course.

At the stage of admission the learned Single Judge, while directing the respondents to file their counter-affidavit justifying the imposition of the restriction that the person, to be admitted into the Horticulture course, should not have passed Intermediate, directed respondents 2 and 3 to accept the appellant-writ petitioner's application subject to further orders in the Writ Petition. While directing the respondents to file their counter-affidavit justifying

imposition of such restriction, the learned Single Judge observed that the admission process may go on, but one seat shall be kept vacant pending further orders.

While, *prima facie*, the notification, prohibiting candidates who passed Intermediate from seeking admission into the Horticulture Diploma course seems unreasonable, the validity of the condition stipulated in the notification can only be examined after the respondents are given a reasonable opportunity of filing their counter-affidavit. The interest of the appellant-writ petitioner has been adequately safeguarded by the Learned Single Judge, directing the respondents to accept her application and to keep one seat vacant.

Sri Peeta Raman, learned counsel for the appellant-writ petitioner, would submit that classes have commenced, examinations are likely to be held within the next month, and if the appellant-writ petitioner is not granted admission by then, the Writ Petition filed by her would be rendered infructuous. On the other hand, Smt. K. Udaya Sri, learned Standing Counsel for the respondent-University, would submit that counselling took place on 22.9.2017; all the seats have already been filled up; classes commenced in the last week of September, 2017; the seat reserved for Ex-servicemen could not be filled up as no candidate, under the Ex-servicemen quota, was available; and all these events took place before the interim order came to be passed on 9.10.2017.

Even if the only seat available in the Ex-servicemen category can be filled up by another eligible candidate, the appellant-writ petitioner's entitlement to be admitted to such a seat would depend upon the condition, stipulated in the notification, being set aside. As

the respondent-University has already filed their counter-affidavit, it is but appropriate that the Writ Petition be heard early, since any delay in hearing the Writ Petition may well result in the very Writ Petition, filed by the appellant-writ petitioner, being rendered infructuous.

As pleadings are complete, suffice it to permit the appellant-writ petitioner to request the learned Single Judge to take up the Writ Petition for hearing out of turn. We have no reason to doubt that, upon such a request being made, the learned Single Judge would give such a request its due consideration. We, however, find no error in the order under appeal necessitating interference in proceedings under Clause 15 of the Letters Patent.

The Writ Appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

16th March, 2018
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Date:16.3.2018

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